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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:  
WEBER ET AL

Serial No.: 10/706,336

Filed: 11/12/2003

§ Atty File: NOVA 9250

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§

§

§ Group Art Unit: 1772

§

§ Examiner: A. N. CHEVALIER

For: THIN WALLED POLYETHYLENE CONTAINER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL**

- ☒ A paper providing a SUMMARY OF CLAIMED SUBJECT MATTER as required in 37CFR 41.37 (c)(1)(v) for the Brief On Appeal in response to examiner's Notification of Non-Compliant Appeal Brief (copy attached) mailed 06/25/2007.
- ☒ No fees are due.
- ☐ A petition for an extension of \_\_\_\_\_ month(s) and fee is enclosed.

Respectfully submitted,

Kenneth H. Johnson  
Reg. No. 22,966  
P.O. Box 630708  
Houston, Texas 77263  
Tel. (713) 780-7047  
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Date: 07/24/2007

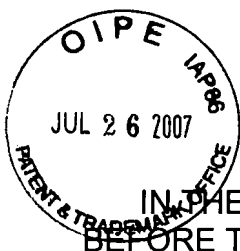
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on 07/24/2007

  
Kenneth H. Johnson



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For: THIN WALLED POLYETHYLENE CONTAINER

PAPER PROVIDING A SUMMARY OF CLAIMED SUBJECT MATTER  
AS REQUIRED IN 37CFR 41.37 (c)(1)(v) FOR BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is presented in response to the Notification of Non Compliant Appeal  
Brief mailed 06/25/2007.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

There is only one independent claim (claim 1) and the claims are all argued together. There are no means plus function recitations under 25 USC 112, sixth paragraph in the present claims.

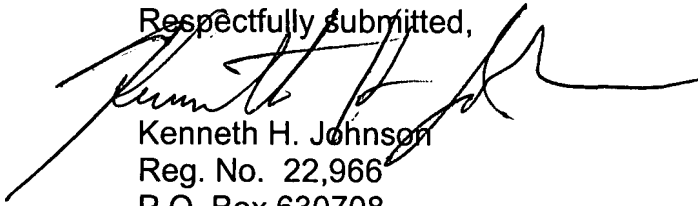
The claimed subject matter relates to a container having a nominal volume of 100 mL to 12 L prepared by injection molding of ethylene copolymer resin, said container having a Vicat softening point of greater than 121°C and an average test drop height point value, as determined by ASTM D5276, of greater than 2.5 feet (Specification page 3, lines 17-21). Such a polyethylene container has a desirable balance of i) a comparatively high softening point and ii) good impact resistance (as determined by ASTM D5276). The container of this invention is prepared from a high density polyethylene having a density of from 0.950 to 0.955 g/cc (Specification page 3, line 23); a viscosity at 100,000 sec<sup>-1</sup> shear rate and 280°C of less than 3.5 Pascal seconds (Specification page 3, lines 24-25); a molecular weight distribution, weight average molecular weight/number average molecular weight (Mw/Mn), of from 2.2 to 2.8; (Specification page 4, lines 1-2 and page 6, lines 15-17); and a hexane extractables content of less than 0.5 weight% (Specification page 4, line 3).



## REMARKS

This paper is presented as recommended under MPEP 1205.03.

Respectfully submitted,



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Date: 07/24/2007

## CERTIFICATE OF MAILING

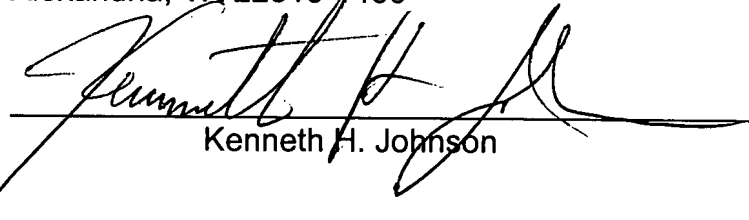
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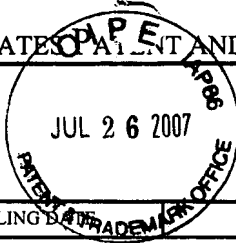
on 07/24/2007



Kenneth H. Johnson



# UNITED STATES PATENT AND TRADEMARK OFFICE

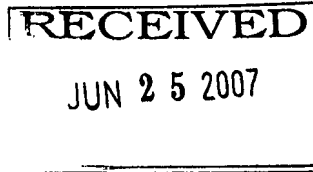


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,336	11/12/2003	Mark Weber	NOVA 9250	6814

1338 7590 06/25/2007

KENNETH H. JOHNSON  
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 06/25/2007

07/25/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/706,336

Examiner

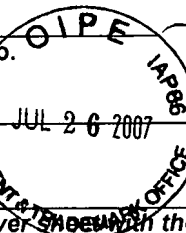
A. N. Chevalier

Applicant(s)

WEBER ET AL.

Art Unit

1772



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 16 May 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

c(5) The summary of claimed subject matter does not map the independent claim (1) on appeal explicitly to the specification by page, and line numbers and to the drawings if any..

Darlene Brown  
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